

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

SUZANNE COWAN  
Plaintiff,

vs.

SENTRY INSURANCE A MUTUAL  
COMPANY  
Defendant.

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CIVIL ACTION NO. 4:17-cv-437-O

**DEFENDANT’S MOTION TO ABATE LAWSUIT**

Defendant, Sentry Insurance, A Mutual Company (“Sentry”), files this Motion to Abate Lawsuit in which it will show that Plaintiff Suzanne Cowan (“Plaintiff”) has failed to comply with a condition precedent to filing suit contained in the insurance policy issued by Sentry to her. In support of this motion, Sentry would show the following:

**SUMMARY**

Plaintiff is insured under Sentry policy number 25-31019-02. Plaintiff’s insurance policy requires Cowan, as a condition precedent to filing suit, to (a) submit to an examination under oath and (b) permit Sentry to inspect her books and records. On March 27, 2017, Sentry requested Cowan to provide an examination under oath and to provide five categories of documents for inspection. Instead of complying with these requests, Cowan filed suit against Sentry. Texas law requires that Cowan’s lawsuit must be abated until Cowan complies with these requirements of the insurance contract.

Cowan’s lawsuit should also be abated until after an appraisal proceeding is concluded. Appraisal is the contractually-required procedure set forth in the Sentry policy to resolve disputes over the “amount of loss” to an insured’s property. Cowan has demanded an appraisal in this

matter, and both Sentry and Cowan have named their respective appraisers. Numerous cases applying Texas law have abated a lawsuit pending completion of the appraisal process.

**FACTUAL AND LEGAL GROUNDS FOR MOTION**

As contemplated by Local Rule 7.1(d) of the Northern District of Texas, the factual and legal grounds for this motion are set forth in the brief filed by Sentry in support of this motion.

For all of the above reasons, as well as those contained in the brief filed in support of this Motion, Defendant, Sentry Insurance A Mutual Company, prays that its Motion to Abate be granted in its entirety, and that this lawsuit be abated until Plaintiff Suzanne Cowan has: (1) completed the examination under oath requirement of her insurance contract; (2) provided the documents and items requested by Sentry; and (3) the appraisal proceeding in this matter has been concluded, for such other and further relief to which Sentry may be entitled, at law or in equity.

Respectfully submitted,

/S/Russell J. Bowman  
Russell J. Bowman  
Texas State Bar No. 02751550  
800 West Airport Freeway, Suite 860  
Irving, Texas 75062  
(214) 922-0220  
(214) 922-0225 (FAX)  
E-Mail: russelljbowman@sbcglobal.net  
ATTORNEY FOR DEFENDANT

**CERTIFICATE OF CONFERENCE**

I hereby certify that I conferred with Preston Dugas III, counsel for Plaintiff, Suzanne Cowan, on June 1, 2017 and that this motion is opposed, so that a ruling by the court on the motion is necessary.

/S/Russell J. Bowman  
Russell J. Bowman

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument was served upon the following, as indicated below, on this the 1st day of June, 2017:

Mr. Preston J. Dugas III  
Preston Dugas Law Firm, PLLC  
309 W. 7<sup>th</sup> Street, Suite 1100  
Fort Worth, Texas 76102

VIA E-MAIL: preston@pjdllawfirm.com

/S/Russell J. Bowman

Russell J. Bowman